THE HON'BLE SRI JUSTICE B.CHANDRA KUMAR

M.A.C.M.A.Nos.941, 942 & 946 of 2005

COMMON ORDER:

Since all these appeals arise out of the same accident, they are being disposed of by this common order.

The United India Insurance Company Limited filed these appeals against the orders passed by the II Additional Chief Judge, City Civil Court, Hyderabad. M.A.C.M.A.No.941 of 2005 is filed challenging the order dated 08.01.2004 passed in O.S.No.2140 of 2000; M.A.C.M.A.No.942 of 2005 is filed challenging the order dated 27.02.2004 in O.P.No.2139 of 2000 and M.A.C.M.A.No.946 of 2005 is filed challenging the order dated 09.01.2004 in O.P.No.2141 of 2000.

The brief facts of the case are as follows:

On 11.07.1999, when the claimants and others were returning from Guntur to Hyderabad in the car bearing No.AP 9R 1141 and when the car reached Srinivasanagar, Barkatgudem Village at Nalgonda District, the A.P.S.R.T.C bus bearing No.AP 10Z 987 came in opposite direction, and there was a collusion between the bus and the car, due to which, two persons died and one person sustained injury. The legal heirs of the deceased-Mrs.M.Sailaja filed O.P.No.2140 of 2000 claiming compensation of Rs.3,00,000/-; The legal heirs of the deceased-M.Vasanth Kumar filed O.P.No.2139 of 2000 claiming compensation of Rs.6,55,000/- and the injured-Sriharshini filed O.P.No.2141 of 2000 claiming compensation of Rs.1,01,250/-. The Tribunal through orders dated 08.02.2004, 27.02.2004 and 08.02.2004 awarded compensation of Rs.1,27,000/-, Rs.6,09,000/- and Rs.12,000/- respectively. Aggrieved by the same, the United India Insurance Company Limited filed these appeals.

The main contention of the learned Standing Counsel for the appellant is that the Tribunal came to the conclusion that the accident

occurred due to the rash and negligent driving of the bus driver and therefore, it ought not to have fastened liability on the Insurance Company along with A.P.S.R.T.C. Even though the quantum of compensation is not disputed, the learned Standing Counsel for the appellant submits that the rate of interest may be reduced from 9% per annum to 7½% per annum.

The only point that arises for consideration is whether the drivers of both the vehicles were negligent and whether the driver of the bus alone was negligent.

It is not in dispute that the injured and the deceased persons were traveling in the car. When the car reached Srinivasanagar, Barkatgudem Village of Nalgonda District, the accident occurred. According to P.W.1, the injured, the A.P.S.R.T.C bus came in the opposite direction and there was a collusion between the bus and the car. She further deposed that she cannot say as to who was at fault for the accident. The driver of the bus was examined as R.W.1. According to him, the accident occurred due to the negligence of the car driver. The Tribunal observed that the A.P.S.R.T.C bus being a heavy vehicle, the driver of the bus could have averted the accident had he driven the bus carefully. Except the evidence of P.W.1 and R.W.1, there is no evidence in this case.

A reading of the entire material gives an impression that both the drivers were negligent and the finding of the Tribunal that the driver of the bus could have averted the accident cannot be said to be perverse. Though the Tribunal has not specifically stated that both the drivers were not negligent, a reading of the impugned orders gives an impression that the Tribunal came to the conclusion that both the drivers were negligent. In view of the same, the finding of the Tribunal that the insurance company and A.P.S.R.T.C. are jointly and severally liable to pay the compensation cannot be disturbed. Further, as seen from the report of the Motor Vehicle Inspector, both the vehicles were

badly damaged. Therefore, it is clear that both the drivers were negligent and as such, the negligence has to be apportioned 50:50.

In view of the same, respondents 2 and 3 are liable to pay each 50% of the awarded compensation. However, the rate of interest is reduced from 9% per annum to 7½% per annum from the date of petition till the date of realization.

With the above modification with regard to the rate of interest, the appeals are partly allowed. There shall be no order as to costs.

Consequently, the Miscellaneous Petition, if any, pending in these appeals shall stand closed.

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B. CHANDRA KUMAR, J.

Date: 22.04.2014
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THE HON'BLE SRI JUSTICE B.CHANDRA KUMAR

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